

ASSEMBLY BILL

No. 2745

Introduced by Assembly Member Ammiano

February 19, 2010

An act to amend Section 11628 of the Insurance Code, relating to motor vehicle insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2745, as introduced, Ammiano. Motor vehicle insurance: discrimination: geographic area.

Existing law prohibits an admitted insurer that is licensed to issue and is issuing motor vehicle liability policies from failing or refusing to accept an application for that insurance, failing or refusing to issue that insurance to the applicant, or from issuing or cancelling that insurance under conditions less favorable to the insured than in other comparable cases because of specified reasons, including discrimination between persons within the same geographic area. Existing law also prohibits the admitted motor vehicle liability insurer from using any characteristic of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, including, but not limited to, language or location within a geographic area, of itself, as a condition or risk for which a higher rate, premium, or charge is required of the insured for that insurance. Existing law defines geographic area as a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber.

This bill would redefine geographic area as a portion of this state of not less than 15 square miles defined by description in the rating manual

of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to limit a state
2 regulated motor vehicle insurer from arbitrarily raising or lowering
3 insurance rates based on crime statistics in the given geographic
4 area of the insured.

5 SEC. 2. Section 11628 of the Insurance Code is amended to
6 read:

7 11628. (a) (1) No admitted insurer that is licensed to issue
8 and issuing motor vehicle liability policies, as defined in Section
9 16450 of the Vehicle Code, shall fail or refuse to accept an
10 application for that insurance, to issue that insurance to an applicant
11 therefor, or issue or cancel that insurance under conditions less
12 favorable to the insured than in other comparable cases, except for
13 reasons applicable alike to persons of every characteristic listed
14 or defined in subdivision (b) or (e) of Section 51 of the Civil Code,
15 including, but not limited to, language, or persons of the same
16 geographic area; nor shall any characteristic listed or defined in
17 subdivision (b) or (e) of Section 51 of the Civil Code, including,
18 but not limited to, language, or location within a geographic area,
19 of itself, constitute a condition or risk for which a higher rate,
20 premium, or charge may be required of the insured for that
21 insurance.

22 (2) As used in this section “geographic area” means a portion
23 of this state of not less than ~~20~~ 15 square miles defined by
24 description in the rating manual of an insurer or in the rating
25 manual of a rating bureau of which the insurer is a member or
26 subscriber. In order that geographic areas used for rating purposes
27 may reflect homogeneity of loss experience, a record of loss
28 experience for the geographic area shall include the breakdown of
29 actual loss experience statistics by ZIP Code area (as designated
30 by the United States Postal Service) within each geographic area
31 for family owned private passenger motor vehicles and lightweight
32 commercial motor vehicles, under 1 ½-ton load capacity, used for
33 local service or retail delivery, normally within a 50-mile radius

of garaging, and that are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for the geographic area, including that statistical data by ZIP Code area, shall be submitted annually to the commissioner for examination by each insurer licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both. Loss experience shall include separate loss data for each type of coverage, including liability or physical damage coverage, underwritten. That report shall include the insurer's statewide loss ratio, loss adjustment expense ratio, expense ratio, and combined ratio on its assigned-risk business. An insurer may satisfy its obligation to report statistical data under this subdivision by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner annually after examination. However, the data shall be released in aggregate form by ZIP Code in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

(3) All information reported to the department pursuant to this subdivision shall be confidential.

(4) As used in this section:

(A) "Language" means the inability to speak, read, write, or comprehend the English language.

(B) "Dependents" shall include, but not be limited to, issue regardless of generation.

(C) "Spouse" shall be determined without regard to current marital status.

(b) The commissioner may require insurers with combined ratios on statewide assigned-risk business that are 10 percent above the mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) (1) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, refuse to issue that insurance to an applicant therefor, or cancel that insurance solely for the reason that the applicant for that insurance or any insured is employed in a specific occupation, or is on active duty service in the Armed Forces of the United States.

(2) Nothing in this section shall prohibit an insurer from doing any of the following:

(A) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(B) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1 and is based upon actuarial data ~~which~~ *that* demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling that actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if any of the following is true:

(i) The majority of his or her employment during the previous year was in the occupation.

(ii) The majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation.

(iii) The person is a member in good standing of a union that is an authorized collective bargaining agent for persons engaged in the occupation.

(3) Nothing in this section shall be construed to include in the definition of “occupation” any status or activity that does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant’s or insured’s place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking, or salvaging of motor vehicles.

1 (d) Nothing in this section shall limit or restrict the ability of
2 an insurer to refuse to accept an application for or refuse to issue
3 or cancel insurance for the reason that it is a commercial vehicle
4 or based upon the consideration of a vehicle's size, weight, design,
5 or intended use.

6 (e) It is the intent of the Legislature that actuarial data by
7 occupation may be examined for credibility by the commissioner
8 on the same basis as any other automobile insurance data ~~which~~
9 *that* he or she is empowered to examine.

10 (f) (1) Except as provided in Article 4 (commencing with
11 Section 11620), nothing in this section or in Article 10
12 (commencing with Section 1861.01) of Chapter 9 of Part 2 of
13 Division 1 or in any other provision of this code, shall prohibit an
14 insurer from limiting the issuance or renewal of insurance, as
15 defined in subdivision (a) of Section 660, to persons who engage
16 in, or have formerly engaged in, governmental or military service
17 or segments of categories thereof, and their spouses, dependents,
18 direct descendants, and former dependents or spouses.

19 (2) The term "military service" includes, but is not limited to,
20 officers, warrant officers, and enlisted persons, officer and warrant
21 officer candidates, cadets or midshipmen at a service academy,
22 cadets or midshipmen in advance Reserve Officer Training Corps
23 programs or on Reserve Officer Training Corps program
24 scholarships, National Guard officer candidates, students in
25 government-sponsored precommissioning programs, and foreign
26 military officers while on temporary duty in the United States.

27 (g) Any person subject to regulation by the commissioner
28 pursuant to this code who fails to comply with a data call required
29 by the department pursuant to subdivision (a) shall be liable to the
30 state for a civil penalty in an amount not exceeding five thousand
31 dollars (\$5,000) for each 30-day period that the person is not in
32 compliance, unless the failure to comply is willful, in which case
33 the civil penalty shall be in an amount not to exceed ten thousand
34 dollars (\$10,000) for each 30-day period that the person is not in
35 compliance, but not to exceed an aggregate amount of one hundred
36 thousand dollars (\$100,000). The commissioner shall collect the
37 amount so payable and may bring an action in the name of the
38 people of the State of California to enforce collection. These
39 penalties shall be in addition to other penalties provided by law.

- 1 (h) This section shall be known and may be cited as the
- 2 “Rosenthal Auto Insurance Nondiscrimination Law.”

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